BOOK REVIEW

The Concept of Injustice (Eric Heinze, Routledge, 2013, ISBN 978 0 415 63479 3, 218 pp)

Review by Matthew Ball[*]

Given the level of debate and theorising in Western thought on the topic of justice, it is curious that the concept of *in*justice has not attracted the same attention. While many schools of thought have sought to address various injustices, most define injustice solely as the opposite of their vision of a just society – it seems they have not been interested in exploring injustice *per se*. With this as a starting point, Eric Heinze's *The Concept of Injustice* addresses this oversight and, by taking injustice itself as an object of analysis, adds a new dimension to these discussions.

Heinze offers a rigorous critique of our common understandings of justice, suggesting that they are binarist – they use an apparent etymological link between the terms 'justice' and 'injustice' to imply that these can be reduced to a mutually exclusive pair of concepts, with injustice being positioned as the opposite and negation of what is just. This is not only the case in theories of justice, but in 'bipolar' legal disputes or in hypothetical scenarios used to debate matters of justice, wherein complex issues are often simplified through a crude binary logic of winner and loser, just and unjust. Additionally, injustice is thought to arise simply because our attempts to bring about justice are not properly achieved: the theory is not implemented properly, or any injustice that is produced is only accidental. As a result of these assumptions, Heinze argues, any understanding of injustice is subordinated to a conceptually and etymologically prior justice.

Heinze's attempt to break away from these assumptions is compelling. He argues that if we are to understand injustice in itself, we could begin by recognising that injustice is an inevitable product of any attempt to bring about justice. In this view, injustice does not exist because of the negation, misapprehension or misapplication of whatever criteria we deem necessary to achieving justice, but because of the existence of such criteria *per se*. This becomes the cornerstone of his argument throughout the book, and while he discusses both the criteria of *unity* and *measurement*, his primary focus is on measurement.

Measurement, Heinze argues, is at the centre of both justice and injustice. Many programmatic theories of justice (like those suggested by thinkers such as Locke, Kant, Mill, Rawls and Dworkin) are concerned with identifying the *correct* system of measurement that can be used to determine a just distribution of social goods. Meritocracy, for example, involves measuring one's merit or achievements and comparing them to those of others. Distributive theories that seek a fairer distribution of social goods also require forms of measurement to achieve their aims. And many of the common maxims of justice – 'from each according to their abilities, to each

[*] Senior Lecturer, School of Justice, Queensland University of Technology.

according to their needs' – rely on measurement. While most theories of justice condemn one system of measurement in order to replace it with another, Heinze suggests that it is the necessity of measurement *as such* within these theories that produces injustice. Every form of measurement, he argues, seeks to translate goods, qualities, contributions, and so on into commodities or numerical values so as to make them comparable and interchangeable – a process that always involves and produces contestation. Measurement therefore sits at the very origin of both justice and injustice – it would be impossible to produce justice *without* measurement, but it is equally impossible to *avoid* producing injustice through such measurement.

Heinze's argument is drawn not only from an examination of key thinkers in the Western canon, but also from in-depth readings of a handful of fictional works (particularly Shakespeare's *The Merchant of Venice* and *Macbeth*, Shakespeare and Middleton's *Timon of Athens* and Pierre Corneille's *Le Cid*), making the book a contribution to law and literature scholarship. These texts, he argues, offer a unique lens through which to understand questions of justice and injustice, given that they are not necessarily wedded to the binarist or legalistic frameworks that he critiques, and that would be present if he drew his sources from case law, legislation or 'real' legal issues. This selection of texts is novel and refreshing.

However, such an in-depth analysis of these texts can distract the reader in at least three ways. First, at times it can seem that an in-depth knowledge of these literary texts is necessary in order to best understand and engage with the evidence Heinze uses to support his propositions. While he provides exhaustive detail, this can be distracting, and may not always serve to convince readers who lack a deeper understanding of these stories. This leads to the second potential distraction, which is that such exhaustive attention devoted to a few key texts can lead to the discussion of a number of examples that are frankly unnecessary. For example, when talking about measurement in one play, Heinze says that it is tempting to read 'meat' as 'mete'. Further, he proposes that the one-upmanship of Shakespearean insults in one context can also be seen as example of measurement and comparison. While his point is well made by the time that these examples are discussed, Heinze's decision to include them can undermine the persuasiveness of his argument by giving the impression that it is somewhat stretched. This impression is also reinforced to some extent by the third potential distraction: such an in-depth reading of a select few texts begs the question why a broader diversity of examples were not used to illustrate the argument. There is no shortage of examples outside of literature (and the strictly legal sphere that the author was trying to avoid) that could have illustrated the broader relevance of the arguments made. This is particularly the case when the very topic analysed is as broad-ranging and widely relevant as injustice.

These critiques aside, *The Concept of Injustice* makes a thought-provoking contribution to debates about justice. Given that these debates are well-trodden ground within Western thought, Heinze is to be commended for such an original and engaging contribution.